

Assembly Bill No. 2760

Passed the Assembly August 20, 1998

Chief Clerk of the Assembly

Passed the Senate August 17, 1998

Secretary of the Senate

This bill was received by the Governor this ____ day
of _____, 1998, at ____ o'clock __M.

Private Secretary of the Governor

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CHAPTER ____

An act to amend Sections 76229, 76230, 76233, 76311, 76341, 76382.6, and 76383 of, and to repeal and add Sections 76381 and 76382 of, the Food and Agricultural Code, relating to agriculture.

LEGISLATIVE COUNSEL'S DIGEST

AB 2760, Committee on Agriculture. California Sheep Commission.

(1) Existing law establishes the California Sheep Commission and prescribes the powers and duties of the commission, which include regulating and promoting the sheep industry in California. Existing law requires the Secretary of Food and Agriculture, not later than April 1, 1986, or as soon thereafter as possible, to establish a list of producers eligible to vote on the implementation of those provisions. In addition, under existing law, the commission is required to conduct a referendum, as specified, from July 1, 1990, to June 30, 1991, and every 5th year thereafter, among producers to determine whether those provisions shall be continued in effect.

This bill, instead, would require the secretary to establish the list of eligible producers not later than April 1, 1999, or as soon thereafter as possible, and would require the secretary, rather than the commission, commencing with the 2004–05 marketing year, and every 5 years thereafter, to hold a hearing to determine whether the provisions shall be continued in effect. Under the bill, if the secretary determines, following the hearing, that a substantial question exists as to whether the provisions should be continued in effect, the secretary would be required to conduct a referendum among producers, as specified.

Existing law also authorizes the secretary, after a public hearing to review a petition filed with the secretary that requests a suspension of the commission's operations, as specified, to hold a referendum among producers, as specified.



This bill would require that hearing to be held pursuant to specified provisions.

(2) Existing law requires the commission, not later than June 1 of each year, to establish the assessment on wool marketed by producers. Existing law defines “marketing season,” for purposes of the law governing the commission, as the period beginning July 1 of any year and extending through the last day of June of the next year. Existing law prohibits the assessment for the marketing season beginning on July 1, 1986, and ending on June 30, 1987, from exceeding 1.5¢ per pound on all wool marketed by producers and prohibits the assessment for the marketing season beginning on July 1, 1987, and thereafter, from exceeding 4¢ per pound.

This bill, instead, would require the commission, not later than January 1 of each year, or as soon thereafter as possible, to establish the assessment on wool marketed by producers, and would define “marketing year” as the period beginning on the date the secretary certifies the favorable vote of producers pursuant to specified provisions of existing law and ending the day immediately preceding that date the following year. The bill would make conforming changes.

In addition, the bill would require the assessment for the first marketing year to be 6¢ per pound on all wool marketed by producers. The bill would prohibit the assessment for the next marketing year, and each marketing year thereafter, from exceeding 8¢ per pound, unless approved by producers. The bill would prohibit the assessment rate from being increased by more than $\frac{1}{2}$ of 1¢ each marketing year. The bill also would prohibit a fee greater than 12¢ per pound from being charged unless that fee is approved by the Legislature by statute.

(3) Existing law defines “producer” and “wool” for purposes of the above provisions. In particular, “producer” is defined as to not include any person who markets 500 pounds or less of wool in the preceding marketing season. “Wool” is defined as the shorn or pulled fleece or fiber of sheep in the grease basis.

This bill would revise the definition of “producer” to exclude any person who markets 100 pounds or less of wool in the preceding marketing season. The bill would define “wool” as the shorn fiber of live sheep in the grease basis.

The people of the State of California do enact as follows:

SECTION 1. Section 76229 of the Food and Agricultural Code is amended to read:

76229. “Marketing year” means the period beginning on the date that the secretary certifies the favorable vote of producers pursuant to Section 76315 and ending the day immediately preceding that date the following year.

SEC. 2. Section 76230 of the Food and Agricultural Code is amended to read:

76230. “Producer” means any person in this state who raises, breeds, grows, or feeds sheep, and markets, or causes to be marketed, the wool derived therefrom and who, upon request, provides proof of commodity sale during the preceding marketing season. “Producer” does not include any person who markets 100 pounds or less of wool in the preceding marketing year.

SEC. 3. Section 76233 of the Food and Agricultural Code is amended to read:

76233. “Wool” means the shorn fiber of live sheep in the grease basis, including wool tags in the natural state before cleaning or scouring.

SEC. 4. Section 76311 of the Food and Agricultural Code is amended to read:

76311. (a) Not later than April 1, 1999, or as soon thereafter as possible, the secretary shall establish a list of producers eligible to vote on implementation of this chapter. In establishing the list, the secretary may require that handlers, producers, and others submit the names and mailing addresses of all producers. The secretary also may require that the information provided include the quantity of wool produced by each producer or, in the alternative, may establish procedures for receiving the information at the time of the referendum vote specified



in Section 76312. The request for the information shall be in writing. The information shall be filed within 30 days following receipt of the written request.

(b) Any producer whose name does not appear on the secretary's list may have his or her name established on the list by filing with the secretary a signed statement, identifying himself or herself as a producer. Failure to be on the list does not exempt the producer from paying assessments.

(c) Prior to the certification of a favorable vote as provided in Section 76315, the secretary shall allow producers to view the list of names of producers created pursuant to subdivision (a). The list shall be viewed only at the department and shall not be photocopied.

SEC. 5. Section 76341 of the Food and Agricultural Code is amended to read:

76341. (a) The commission shall, not later than January 1 of each year, or as soon thereafter as possible, establish the assessment for the following marketing year.

(b) The assessment for the first marketing year shall be six cents (\$0.06) per pound on all wool marketed by producers.

(c) For the second and subsequent marketing years, the assessment shall not exceed eight cents (\$0.08) per pound on all wool marketed by producers, as determined by the commission, unless a greater fee is approved by producers pursuant to the procedures specified in Section 76381.

(d) The assessment rate shall not be increased by more than one-half of one cent (\$0.005) each marketing year.

(e) A fee greater than twelve cents (\$0.12) per pound may not be charged unless that fee is approved by the Legislature by statute.

(f) Assessments provided for in this section shall be upon the producer. The handler shall deduct the assessment from amounts paid by him or her to the producer and shall be a trustee of those funds until they are paid to the commission at the time and in the manner prescribed by the commission.

SEC. 6. Section 76381 of the Food and Agricultural Code is repealed.

SEC. 7. Section 76381 is added to the Food and Agricultural Code, to read:

76381. (a) Every five years, commencing with the 2004–05 marketing year, the secretary shall hold a hearing to determine whether the operation of this chapter shall be continued in effect. If the secretary finds, following the hearing, that a substantial question exists among producers assessed under this chapter as to whether the operation of this chapter shall be continued in effect, the secretary shall conduct a referendum vote among producers to determine whether the operation of this chapter shall be approved and continued in effect. A favorable vote under this section shall be found if the secretary determines from the referendum that a majority of the eligible producers voting in the referendum voted in favor of continuing the operations of this chapter.

(b) If the secretary finds, following the referendum vote, that a favorable vote has been given as provided in subdivision (a), the secretary shall so certify and this chapter shall remain in operation. If the secretary finds that a favorable vote has not been given as provided in subdivision (a), the secretary shall so certify and declare the operation of this chapter and the commission suspended upon expiration of the then current marketing year. At that time, the operations of the commission shall be concluded and funds distributed in the manner provided in Section 76383.

SEC. 8. Section 76382 of the Food and Agricultural Code is repealed.

SEC. 9. Section 76382 is added to the Food and Agricultural Code, to read:

76382. If a petition is filed as provided in Section 76382.5, the secretary shall hold a hearing pursuant to Section 76381 prior to conducting the referendum authorized by Section 76382.5.

SEC. 10. Section 76382.6 of the Food and Agricultural Code is amended to read:



76382.6. The secretary shall terminate the commission at the end of the current marketing year if the secretary finds that the termination of the commission is requested in writing, within a 90-day period, by at least 51 percent of the eligible producers that are directly affected that produce at least 51 percent of the volume of the product.

The person or persons originating the request shall file a written notice with the secretary in a manner that establishes the date the request is initiated. Any person may withdraw his or her name from the petition requesting the termination prior to the time the request is presented to the secretary.

The signatures to the petition requesting the termination need not all be appended to one sheet of paper. Each person signing the petition shall add to his or her signature his or her place of business, giving street and number. If no street and number exist, then a designation of the place of business shall be given which will enable the location to be readily ascertained.

The petition shall bear a copy of the notice of intention. Signatures shall be secured within the time limit specified in this section.

SEC. 11. Section 76383 of the Food and Agricultural Code is amended to read:

76383. After the effective date of suspension of the operation of this chapter, the operation of the commission shall be concluded and any and all funds remaining held by the commission, collected by assessment and not required to defray the expenses of concluding and terminating operations of the commission, shall be returned upon a pro rata basis to all persons from whom assessments were collected in the immediately preceding marketing year. However, if the commission finds that the amounts so returnable are so small as to make impractical the computation and remitting of the prorated refund to these persons, any funds remaining after payment of all expenses of winding up and terminating operations shall be withdrawn from the approved depository and paid into an appropriate program

conducted by the University of California or the California State University system, another state agency, or a federal agency that deals with the purposes of this chapter. If no program exists, the funds shall be paid into the State Treasury as unclaimed trust funds.



Approved _____, 1998

Governor

